

**UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

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| SIERRA CLUB, |) | |
| |) | |
| |) | |
| Plaintiff, |) | Case No. 3:22-cv-1054 |
| |) | |
| v. |) | JUDGE CAMPBELL |
| |) | MAGISTRATE JUDGE |
| TENNESSEE VALLEY AUTHORITY, |) | HOLMES |
| |) | |
| Defendant. |) | |

JOINT CASE RESOLUTION STATUS REPORT

Plaintiff Sierra Club and Defendant Tennessee Valley Authority (“TVA”) respectfully submit this Joint Case Resolution Status Report. In the Court’s Initial Case Management and Scheduling Order (“Order”), the Court directed the Parties to make at least one substantive attempt at resolution of this case and file a joint status report confirming those efforts and stating the specific steps taken towards case resolution. ECF No. 31, PageID# 220. As required by the Order, Sierra Club and TVA show as follows:

1. This action by Sierra Club challenges TVA’s decision to build ten new gas-fired aeroderivative combustion turbines (“Aero CTs”) on TVA’s Johnsonville Reservation in Humphreys County. In the complaint, ECF No. 1, Sierra Club asserts that TVA’s Johnsonville Aeroderivative Combustion Turbines Project Final Environmental Assessment (“EA”) violates the National Environmental Policy Act (“NEPA”), 42 U.S.C. § 4321 *et seq.* TVA contends that the EA complied with NEPA and that its decision to construct and operate the Aero CTs should be upheld.

2. On March 20, 2023, TVA filed a motion to dismiss, ECF No. 26, the complaint for lack of subject matter jurisdiction. That motion is fully briefed and remains pending. TVA lodged the administrative record for the EA on August 4, 2023. ECF No. 46. The parties' cross summary judgment motions are due October 23, 2023.

3. At the beginning of September 2023, Sierra Club sought and TVA provided information about the status of the Johnsonville Aeroderivative Combustion Turbines Project that is the subject of this litigation, in order to facilitate settlement discussions between the parties.

4. On September 20, 2023, Sierra Club sent TVA a confidential settlement offer letter proposing a settlement to be embodied in a joint consent decree made between the Parties and approved by the Court.

5. On September 27, 2023, TVA responded by letter rejecting Sierra Club's settlement offer.

6. On September 28, 2023, counsel for Sierra Club and counsel for TVA attended a video conference at which counsel discussed the Parties' positions and the possibility of a partial settlement.

7. The Parties have not agreed to a settlement of this case to date. However, the Parties intend to continue discussing the potential for settlement throughout the pendency of this case as circumstances evolve. Consistent with the Order, the Parties have made good faith substantive efforts to resolve this case notwithstanding the pendency of TVA's motion and will continue to do so.

DATE: October 2, 2023

Respectfully submitted,

/s/ Spencer Gall

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¹ As required by L.R. 83.01(d)(3), Sierra Club states that Mr. Buppert is a member of the Tennessee bar and has provided his Tennessee Board of Professional Responsibility number.

Attorneys for Tennessee Valley Authority

CERTIFICATE OF SERVICE

I hereby certify that on October 2, 2023, I served a copy of the foregoing document on the following parties via the Court's electronic case filing system:

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/s Spencer Gall
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